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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,611	06/07/2001	Ryan J. Snodgrass	AMAZON.074A	9007

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EXAMINER

VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/876,611	Applicant(s) SNODGRASS ET AL.	
	Examiner John Van Bramer	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/07/01</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 34 – 37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Web sites are just a collection of data and modules are not clearly on a medium. Therefore, Claims 34 – 37 are considered functional descriptive material and therefore are not patentable (See MPEP 2106(IV)(B)(1)(a)).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 34 – 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of Claim 34 states that the claim is directed towards an “electronic commerce system” which indicates that the claim is an apparatus claim. However, the body of the claim fails to provide any structure to the claimed apparatus. Claims 35 – 37 suffer the same deficiency due there dependency on Claim 34.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bezos et al. (U.S. Patent Number: 6,029,141).

Claim 15: Bezos discloses a method of relating a customer to a community based at least upon the customer's interaction with an associate web site, wherein the customer selects a referral link in an associate web site and is directed to a web site system:

- a. Providing a database, which includes information about a plurality of communities, wherein the communities are related to associates and the associates operate associate web sites that refer customers to a web site system. (Bezos: Col 2, lines 48 – 65)
- b. Receiving a referral message from an associate web site, wherein the referral message is generated in response to a selection by the customer of a referral link on the associate web site. (Bezos: Col 12, lines 14 – 26)
- c. Extracting the associate identifier from the referral message. (Bezos: Col 11, line 63 through Col 12, line 13)

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- d. Using an associate identifier extracted from the referral message and the database to identify at least one community that relates to the customer. (Bezos: Col 12, lines 14 – 26)

Claim 16: Bezos discloses the method of Claim 15, wherein the associates operate associate web sites that refer customers to the web site system in exchange for compensation. (Bezos: Col 14, lines 38 – 51)

- 7. Claims 29, 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Aggarwal et al. (U.S. Patent Number: 6,356,879).

Claim 29: Aggarwal discloses a method of assisting a customer in selecting items from an electronic catalog of items of an online store, wherein the online store provides services for enabling the customer to browse items from the electronic catalog, the method comprising:

- a. Providing a community database, which includes information about communities and their related customers. (Aggarwal: Col 2, line 65 through Col 3, line 23)
- b. Receiving a customer identifier that corresponds to a customer. (Aggarwal: Col 7, lines 1 – 16)
- c. Processing the customer identifier to identify at least one community that is related to the customer. (Aggarwal: Col 7, lines 1 – 16)

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- d. Providing a community recommendation database, which includes information about communities, and the items that are popular within the respective communities. (Aggarwal: Col 7, lines 1 – 42)
- e. Using the at least one community that is related to the customer and the community recommendation database to identify at least one item that is popular within the at least one community. (Aggarwal: Col 2, lines 49 – 64)
- f. Electronically presenting the at least one item to the customer. (Aggarwal: Col 2, lines 9 – 13 and 49 – 64)

Claim 30: Aggarwal discloses the method of Claim 29, wherein electronically presenting the at least one item includes presenting a web page with a link to a web page that corresponds to the at least one item. (Aggarwal: Col 2, lines 9 – 14 and lines 49 – 64)

Claim 31: A method of assisting associates running web sites in selecting items to offer to customers in the associates' web sites, the method comprising:

- a. Providing a first database which includes information about a plurality of communities, wherein different communities relate to subsets of customers based at least upon associate web sites visited by the customers. (Aggarwal: Col 7, lines 1 – 16)

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- b. Tracking at least a portion of the customers' online activity in an online store to generate activity history data, and storing the activity history data in a computer memory. (Aggarwal: Col 7, lines 1 – 16)
- c. Processing at least the activity history data and the first database to identify at least one item which, based on pre-specified criteria, has become popular within a particular community. (Aggarwal: Col 2, lines 49 – 64)
- d. Storing the relationship between the at least one item and the community. (Aggarwal Col 7, lines 1 – 16)

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 – 14, 21 – 28, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aggarwal et al. (U.S. Patent Number: 6,356,879) in view of Bezos et al. (U.S. Patent Number: 6,029,141).

Claim 1: Aggarwal discloses a computer-implemented method of assisting users in locating products within an online catalog of products of a merchant web site, the method comprising:

- a. While Aggarwal is silent with regard to tracking electronic referrals of customers from an associate web site to the merchant web site. Bezos discloses the operation and use of an affiliate program, including referral tracking (Bezos: Col 2, lines 48 – 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made incorporate an affiliate referral program into a merchant website using Aggarwal's recommendation system. One would have been motivated to do this because affiliate programs have been successful at increasing both customer traffic and sales on electronic commerce sites.
- b. Maintaining customer-specific histories of at least one type of browsing activity that evidences customers' interests in particular products in the online catalog. (Aggarwal: Col 7, lines 1 - 16)
- c. Identifying a community of customers, including customers who are deemed to share a common interest by virtue of having been referred to the merchant web site from the associate web site. (Aggarwal: Col 5, lines 6 - 17)
- d. Analyzing the customer-specific histories of at least members of the community to identify a set of products that, based upon predefined criteria, are deemed to be popular within the community. (Aggarwal: Col 7, lines 18 – 42)

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Claim 2: Aggarwal and Bezos disclose the method as in Claim 1 further comprising presenting information relating to the set of products to a user of the associate web site. (Bezos: Col 6, line 59 through Col 7, line 20)

Claim 3: Aggarwal and Bezos disclose the method as in Claim 2, wherein the information is displayed within the associate web site. (Bezos: Col 6, line 59 through Col 7, line 20 and Col 12, lines 27 - 41)

Claim 4: Aggarwal and Bezos disclose the method as in Claim 1 further comprising presenting information relating to the set of products to a user of the merchant web site. (Aggarwal: Col 2, lines 49 – 64)

Claim 5: Aggarwal and Bezos disclose the method as in Claim 1, wherein the associate web site is substantially related to the common interest. (Bezos: Col 9, lines 9 – 21)

Claim 6: Aggarwal and Bezos disclose the method as in Claim 1, wherein identifying a community of customers comprises including within the community customers referred from at least two different associate web sites. (Aggarwal: Col 5, lines 6 – 17 and Bezos: Col 13, lines 9 – 28)

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Claim 7: Aggarwal and Bezos disclose the method as in Claim 1, wherein identifying a community of customers comprises including within the community a customer who was not referred to the merchant web site from an associate site but who has otherwise indicated an interest in the common interest. (Aggarwal: Col 5, lines 6 – 17)

Claim 8: Aggarwal and Bezos disclose the method as in Claim 1, wherein the customer-specific histories include histories of products purchased. (Aggarwal: Col 2, lines 34 – 39)

Claim 9: Aggarwal and Bezos disclose the method as in Claim 1, wherein the customer-specific histories include histories of products viewed during browsing of the online catalog. (Aggarwal: Col 2, lines 34 – 39)

Claim 10: Aggarwal and Bezos disclose the method as in Claim 1, wherein the customer-specific histories include at least one of purchase histories, product viewing histories, shopping cart selection histories, product rating histories, and product bidding histories. (Aggarwal: Col 2, lines 34 – 39)

Claim 11: Aggarwal and Bezos disclose the method as in Claim 1, wherein analyzing the customer-specific histories comprises comparing a popularity of the product

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within the community to a popularity of the product within a general customer population. (Aggarwal: Col 7, lines 33 – 55)

Claim 12: Aggarwal and Bezos disclose the method as in Claim 1, wherein presenting the set of products to a user of the associate web site comprises displaying the set of products within a page of the associate web site. (Bezos: Col 6, line 59 through Col 7, line 20 and Col 12, lines 27 - 41)

Claim 13: Aggarwal and Bezos disclose the method as in Claim 1, wherein presenting the set of products to a user of the associate web site comprises displaying the set of products within a page of the merchant web site when the user is referred to the merchant web site. (Bezos: Col 12, lines 14 – 41)

Claim 14: Aggarwal and Bezos disclose the method as in Claim 13, wherein the page is a product detail page of the online catalog. (Bezos: Col 12, lines 14 – 41)

Claim 21: Aggarwal discloses method of creating a database of community recommendations, wherein the database is used to assist customers in selecting items from an electronic catalog of items accessible via an online store, the method comprising:

- a. Providing a first database, which includes information about a plurality of communities, wherein different communities relate to subsets of customers.

- Aggarwal: Col 7, lines 1 – 16. While Aggarwal is silent with regard to associate web sites are run by associates who refer customers to the online store, Bezos directly speaks to this feature (Bezos: Col 7, lines 21 – 40). It would have been obvious to one of ordinary skill in the art at the time the invention was made incorporate an affiliate referral program into a merchant website using Aggarwal's recommendation system. One would have been motivated to do this because affiliate programs have been successful at increasing both customer traffic and sales on electronic commerce sites
- b. Tracking at least a portion of the customers' online activity in the online store to generate activity history data, and storing the activity history data in a computer memory. (Aggarwal: Col 7, lines 1 – 16)
 - c. Processing at least the activity history data and the first database to identify at least one item which, based on pre-specified criteria, has become popular within a particular community. (Aggarwal: Col 7, lines 17 – 42)
 - d. Storing the relationship between the at least one item and the community. (Aggarwal: Col 7, lines 17 – 42)

Claim 22: Aggarwal and Bezos disclose the method of Claim 21, wherein the associates refer customers to the online store in exchange for compensation.

(Bezos: Col 7, lines 41 – 51)

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Claim 23: Aggarwal and Bezos disclose the method of Claim 21 further comprising: electronically notifying members of the community that the at least one item is popular within the community. (Aggarwal: Col 2, lines 20 – 33)

Claim 24: Aggarwal and Bezos disclose the method of Claim 21, wherein the online activity includes at least one of purchases, click-throughs, and additions to shopping carts. (Aggarwal: Col 7, lines 1 – 16)

Claim 25: Aggarwal and Bezos disclose the method of Claim 21, wherein electronically notifying members of the community comprises generating a web page which includes a community-based most popular items list. (Aggarwal: Col 2, lines 49 – 64)

Claim 26: Aggarwal and Bezos disclose the method of Claim 25, wherein the most popular items list is a bestsellers list. (Providing a recommendation list based upon the most popular purchased items in a peer group, means that these products are also the best selling products in the group as evidenced by their popularity) (Aggarwal: Col 2, lines 49 – 64)

Claim 27: Aggarwal and Bezos disclose the method of Claim 21, wherein electronically notifying members of the community comprises automatically

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generating and sending an email message to members of the community. (Bezos: Col 8, line 59 through Col 9, line 8)

Claim 28: Aggarwal and Bezos disclose the method of Claim 27, wherein the email message includes contact information of at least one member of the community that has purchased an item described in the email message. (When an associate communicates its products and recommendations via email, the email would contain the name of the product the customer purchased, the products the associate is recommending, and the customers email address. Since the customer is a member of the community, the claim limitations as currently presented have been met.)(Bezos: Col 8, line 59 through Col 9, line 8)

Claim 32: Aggarwal discloses the method of Claim 31. While Aggarwal does electronically notify customers of items that are popular within a community, Aggarwal is silent with regard to electronically notifying associates of items that are popular within at least one community to which the associates are related. However, Bezos discloses providing associates with feedback reports from them merchant website (Bezos: Col 16, lines 11 – 41). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in an associate sales or commission report a listing of popular items that is specific to the associate's customers. One would have been motivated to do this in order to

provide the associate with information that can be used to track customer sales and to determine the most profitable product mix for their given community.

Claim 33: Aggarwal disclose the method of Claim 31, and using the community recommendation database to identify at least one item that is popular within at least one community. However, Aggarwal is silent with regard to using an associate community database and the community recommendation database to identify at least one item that is popular within at least one community to which the associate is related. However, Bezos discloses incorporating associates in a merchant web site and providing feedback to those associates that is based upon the actions of the associates customers (Bezos: Col 6, lines 21 – 40 and Col 16, lines 11 – 41). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide associates with information regard which products their customers are more likely to purchase. One would have been motivated to do this in order to increase the associates up-selling and cross-selling capabilities and thereby increase overall product sales.

10. Claims 17 – 20, and 34 - 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al. (U.S. Patent Number: 6,029,141) in view of Aggarwal et al. (U.S. Patent Number: 6,356,879).

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Claims 17, 18 and 19: Bezos discloses the method of Claim 15. While Bezos does not specifically disclose assigning the customer to a community, storing the community that relates to the customer in a database, and providing content associated with the community, Aggarwal teaches providing customer recommendations based upon communities that have been stored in a database (Aggarwal: Col 7, lines 1 – 16; Col 7, lines 33 – 42; and Col 7, lines 43 – 55)). It would have been obvious to one of ordinary skill in the art at the time of the invention, to incorporate a recommendation system into the internet based customer referral system disclosed in Bezos. The disclosed inventions are very synergistic and provide enhancements to an online merchandizing system. One would have been motivated to incorporate the disclosed recommendation system in order to increase the merchants up-selling and cross-selling capabilities and thereby increase overall product sales.

Claim 20: Bezos and Aggarwal disclose the method of Claim 19, wherein providing content associated with the at least one community to the customer includes pushing the content to the associate web site. (Bezos: Col 8, lines 32 – 48)

Claim 34: Bezos discloses an electronic commerce system, comprising:

- a. A merchant web site comprising an electronic catalog of products. (Bezos: Col 6, lines 12 – 20)

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- b. An associate web site that provides at least one link to the merchant web site to refer users to the merchant web site. (Bezos: Col 6, lines 21 – 30)
- c. A first program module, which is responsive to referrals of users from the associate web site to the merchant web site by assigning such users to a community. (Bezos: Col 11, line 63 through Col 12, line 14)
- d. While Bezos is silent with regard to the use of a recommendation system, the analogous teachings of Aggarwal disclose analyzing histories of activities, performed users while browsing the merchant web site to identify products that are popular within the community (Aggarwal: Col 7, lines 17 – 41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a recommendation system into the invention disclosed by Bezos. One would have been motivated to incorporate the disclosed recommendation system in order to increase the merchant's and its associate's up-selling and cross-selling capabilities and thereby increase overall product sales.

Claim 35: The electronic commerce system of Claim 34, wherein the associate web site includes content associated with a subset of the products in the electronic catalog. (Bezos: Col 9, lines 8 – 21)

Claim 36: The electronic commerce system of Claim 34, wherein the at least one link comprises a banner ad link. (Bezos: Col 17, lines 6 – 15)

Claim 37: The electronic commerce system of Claim 34, further comprising a third program module that pushes information about the products that are popular within the community to the associate web site for display therein. (Bezos: Col 16, lines 11 – 41)

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jacobi et al. (U.S. Patent Number: 6,064,980) discloses another type of recommendation system for use within merchant and associate web sites.

Gerace (U.S. Patent Number: 5,848,396) discloses targeting consumer through the use of groups based upon psychographic data.

J. B. Schafer, J. Konstan, and J. Riedl, (*Recommender Systems in E-Commerce*, ACM Conf. Electronic Commerce (EC-99), Denver, CO, pp. 158-166, Nov. 1999.) discloses various techniques for generating customer recommendations.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 9am - 5pm Monday through Friday.

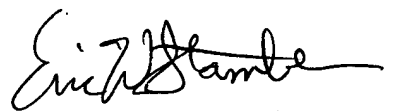
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gmb
jvb


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SUPERVISORY PATENT EXAMINER
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